UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

CINDY LOVINS,	)	
	)	
Plaintiff,	)	Case No. 2:16-CV-00038-PLC
v.	)	
	)	
STEPHEN KORTE, et al.	)	
	)	
Defendants.	)	

DEFENDANTS' JOINT ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFF'S COMPLAINT

COME NOW Defendants Stephen Korte, Josh Baker, Josh Langley, and Joseph Minor, and for their Joint Answer and Affirmative Defenses to Plaintiff's Complaint state to the Court as follows:

1. Defendants admit the allegations set forth in paragraph 1.
2. Defendants admit the allegations set forth in paragraph 2.
3. Defendants admit the allegations set forth in paragraph 3.
4. Defendants admit the allegations set forth in paragraph 4.
5. Defendants admit the allegations set forth in paragraph 5.
6. Defendants are without sufficient information to form a belief as to the truth of the allegations set forth in paragraph 6 and therefore deny same.
7. Defendants are without sufficient information to form a belief as to the truth of the allegations set forth in paragraph 7 and therefore deny same.
8. Defendants are without sufficient information to form a belief as to the truth of the allegations set forth in paragraph 8 and therefore deny same.
9. Defendants admit the allegations set forth in paragraph 9.

10. Defendants admit the allegations set forth in paragraph 10.

11. Defendants admit the allegations set forth in paragraph 11.

12. Defendants admit the allegations set forth in paragraph 12.

13. Defendants admit the allegations set forth in paragraph 13.

14. Defendants admit the allegations set forth in paragraph 14.

15. Defendants admit the allegations set forth in paragraph 15.

16. Defendants admit the allegations set forth in paragraph 16.

17. Defendants admit the allegations set forth in paragraph 17.

18. Defendants admit the allegations set forth in paragraph 18.

19. Defendants admit the allegations set forth in paragraph 19.

20. Defendants admit the allegations set forth in paragraph 20.

21. Defendants deny the allegations set forth in paragraph 21.

22. Defendant deny the allegations set forth in paragraph 22 and further state that Plaintiff consented to the entry and search of Plaintiff's home.

23. Defendants deny the allegations set forth in paragraph 23; however, Defendants admit that certain items of personal property were removed from Plaintiff's home by consent and further Plaintiff authorized the removal of those items from the home.

24. Defendants deny the allegations set forth in paragraph 24.

25. Defendants deny the allegations set forth in paragraph 25.

26. Defendants deny the allegations set forth in paragraph 26.

27. Defendants deny the allegations set forth in paragraph 27 and further state that the Defendants did not remove such items from Plaintiff's home and further state that any search or seizure of such property was by the Missouri State Highway Patrol.

28. Defendants deny the allegations set forth in paragraph 28.

29. Defendants deny the allegations set forth in paragraph 29.

30. Defendants deny the allegations set forth in paragraph 30.

31. Defendants admit the allegations set forth in paragraph 31.

32. Defendants are without sufficient information to form a belief as to the truth of the allegations set forth in paragraph 32 and therefore deny same.

33. Defendants deny the allegations set forth in paragraph 33.

34. Defendants deny the allegations set forth in paragraph 34.

35. Defendants admit that Exhibit 1 is attached and is a copy of Pike County Sheriff Office's Incident Report for Case No. 14-502.

36. Defendants admit the allegations set forth in paragraph 36 and further state that Exhibit 1 speaks for itself.

37. Defendants admit the allegations set forth in paragraph 37.

38. Defendants admit the allegations set forth in paragraph 38.

39. Defendants admit the allegations set forth in paragraph 39.

40. Defendants admit the allegations set forth in paragraph 40.

41. Defendants admit the allegations set forth in paragraph 41.

42. Defendants deny the allegations set forth in paragraph 42 and state that the documents speaks for itself.

43. Defendants admit the allegations set forth in paragraph 43.

44. Defendants admit the allegations set forth in paragraph 44.

45. Defendants admit the allegations set forth in paragraph 45.

46. Defendants deny the allegations set forth in paragraph 46 and state that the documents speaks for itself.

47. Defendants admit the allegations set forth in paragraph 47.

48. Defendants admit the allegations set forth in paragraph 48 and further states that the Sheriff's office did not have the authority to release the property.

49. Defendants admit the allegations set forth in paragraph 49 and further states that the Sheriff's office did not have the authority to release the property.

50. Defendants deny the allegations set forth in paragraph 50.

51. Defendants deny the allegations set forth in paragraph 51.

52. Defendants deny the allegations set forth in paragraph 52.

COUNT I—LOVINS CLAIMS UNDER § 1983
COUNT I(A)—UNREASONABLE SEARCH

COME NOW Defendants Stephen Korte, Josh Baker, Josh Langley, and Joseph Minor, and for their Joint Answer and Affirmative Defenses to Count I(A) of Plaintiff's Complaint state to the Court as follows:

53. Defendants deny the allegations set forth in paragraph 53 and further state that the Defendants had consent and/or probable cause to enter the residence and execute a search.

54. Defendants deny the allegations set forth in paragraph 54.

55. Defendants admit the allegations set forth in paragraph 55 and further state that the case law speaks for itself.

56. Defendants deny the allegations set forth in paragraph 56.

57. Defendants deny the allegations set forth in paragraph 57.

58. Defendants deny the allegations set forth in paragraph 58.

59. Defendants deny the allegations set forth in paragraph 59.

AFFIRMATIVE DEFENSES

A. By way of further Answer and Affirmative Defense these Defendants state that the Defendants had probable cause to search the Plaintiff's premises and further that Plaintiff consented to the search and therefore Plaintiff has no cause of action against these Defendants for illegal search and seizure under the Fourth Amendment.

B. By way of further Answer and Affirmative Defense these Defendants state that these Defendants acted in good faith and their actions were reasonable and that the Defendants are protected by the Doctrine of Qualified Immunity.

C. By way of further Answer and Affirmative Defense the Defendants are protected by the Doctrine of Official Immunity.

WHEREFORE, Defendants pray that this Court find in their favor and against Plaintiff Lovins and that Plaintiff Lovins go hence with her costs and for such other and further action as this Court deems just and proper in the premises.

COUNT I(B)—UNREASONABLE SEIZURE

COME NOW Defendants Stephen Korte, Josh Baker, Josh Langley, and Joseph Minor, and for their Joint Answer and Affirmative Defenses to Count I(B) of Plaintiff's Complaint state to the Court as follows:

60. Defendants admit that certain personal property was seized by these Defendants but that other property was seized by the Missouri State Highway Patrol and that any seizure was reasonable under the circumstances.

61. Defendants deny the allegations set forth in paragraph 61.

62. Defendants admit the allegations set forth in paragraph 62 and further state that the case law speaks for itself.

63. Defendants deny the allegations set forth in paragraph 63.

64. Defendants deny the allegations set forth in paragraph 64.

65. Defendants deny the allegations set forth in paragraph 65.

66. Defendants deny the allegations set forth in paragraph 66.

AFFIRMATIVE DEFENSES

A. By way of further Answer and Affirmative Defense these Defendants state that the Defendants had probable cause to search the Plaintiff's premises and further that Plaintiff consented to the search and therefore Plaintiff has no cause of action against these Defendants for illegal search and seizure under the Fourth Amendment.

B. By way of further Answer and Affirmative Defense these Defendants state that these Defendants acted in good faith and their actions were reasonable and that the Defendants are protected by the Doctrine of Qualified Immunity.

C. By way of further Answer and Affirmative Defense the Defendants are protected by the Doctrine of Official Immunity.

WHEREFORE, Defendants pray that this Court find in their favor and against Plaintiff Lovins and that Plaintiff Lovins go hence with her costs and for such other and further action as this Court deems just and proper in the premises.

COUNT I(E)—UNLAWFUL ARREST

COME NOW Defendants Stephen Korte, Josh Baker, Josh Langley, and Joseph Minor, and for their Joint Answer and Affirmative Defenses to Count I(E) of Plaintiff's Complaint state to the Court as follows:

67. Defendants deny the allegations set forth in paragraph 67.

68. Defendants deny the allegations set forth in paragraph 68.

69. Defendants deny the allegations set forth in paragraph 69.

70. Defendants deny the allegations set forth in paragraph 70.

71. Defendants deny the allegations set forth in paragraph 71.

72. Defendants deny the allegations set forth in paragraph 72.

73. Defendants deny the allegations set forth in paragraph 73.

AFFIRMATIVE DEFENSES

A. By way of further Answer and Affirmative Defense these Defendants state that the Defendants had probable cause to search the Plaintiff's premises and further that Plaintiff consented to the search and therefore Plaintiff has no cause of action against these Defendants for illegal search and seizure under the Fourth Amendment.

B. By way of further Answer and Affirmative Defense these Defendants state that these Defendants acted in good faith and their actions were reasonable and that the Defendants are protected by the Doctrine of Qualified Immunity.

C. By way of further Answer and Affirmative Defense the Defendants are protected by the Doctrine of Official Immunity.

WHEREFORE, Defendants pray that this Court find in their favor and against Plaintiff Lovins and that Plaintiff Lovins go hence with her costs and for such other and further action as this Court deems just and proper in the premises.

COUNT I(D)—PROCEDURAL DUE PROCESS VIOLATION

COME NOW Defendants Stephen Korte, Josh Baker, Josh Langley, and Joseph Minor, and for their Joint Answer and Affirmative Defenses to Count I(D) of Plaintiff's Complaint state to the Court as follows:

74. Defendants deny the allegations set forth in paragraph 74 and further state that Defendant Korte does not have the authority to release said property.

75. Defendants admit the allegations set forth in paragraph 75.

76. Defendants deny the allegations set forth in paragraph 76.

77. Defendants deny the allegations set forth in paragraph 77.

78. Defendants deny the allegations set forth in paragraph 78.

AFFIRMATIVE DEFENSES

A. By way of further Answer and Affirmative Defense these Defendants state that the Defendants had probable cause to search the Plaintiff's premises and further that Plaintiff consented to the search and therefore Plaintiff has no cause of action against these Defendants for illegal search and seizure under the Fourth Amendment.

B. By way of further Answer and Affirmative Defense these Defendants state that these Defendants acted in good faith and their actions were reasonable and that the Defendants are protected by the Doctrine of Qualified Immunity.

C. By way of further Answer and Affirmative Defense the Defendants are protected by the Doctrine of Official Immunity.

WHEREFORE, Defendants pray that this Court find in their favor and against Plaintiff Lovins and that Plaintiff Lovins go hence with her costs and for such other and further action as this Court deems just and proper in the premises.

COUNT II—REPLEVIN PURSUANT TO MISSOURI LAW

COME NOW Defendants Stephen Korte, Josh Baker, Josh Langley, and Joseph Minor, and for their Joint Answer and Affirmative Defenses to Count II of Plaintiff's Complaint state to the Court as follows:

79. Defendants admit the allegations set forth in paragraph 79 and Defendant Korte further states that he does not have the authority to return said items since there are criminal matters still pending against the purported owner of the property.

80. Defendants deny the allegations set forth in paragraph 80.

81. Defendants deny the allegations set forth in paragraph 81.

82. Defendants deny the allegations set forth in paragraph 82.

83. Defendants deny the allegations set forth in paragraph 83.

84. Defendants deny the allegations set forth in paragraph 84.

85. Defendants deny the allegations set forth in paragraph 85.

86. Defendants deny the allegations set forth in paragraph 86.

AFFIRMATIVE DEFENSES

A. By way of further Answer and Affirmative Defense these Defendants state that the Defendants had probable cause to search the Plaintiff's premises and further that Plaintiff consented to the search and therefore Plaintiff has no cause of action against these Defendants for illegal search and seizure under the Fourth Amendment.

B. By way of further Answer and Affirmative Defense these Defendants state that these Defendants acted in good faith and their actions were reasonable and that the Defendants are protected by the Doctrine of Qualified Immunity.

C. By way of further Answer and Affirmative Defense the Defendants are protected by the Doctrine of Official Immunity.

WHEREFORE, Defendants pray that this Court find in their favor and against Plaintiff Lovins and that Plaintiff Lovins go hence with her costs and for such other and further action as this Court deems just and proper in the premises.

BARKLAGE, BRETT & HAMILL, P.C.

BY: *\/s/ Joel D. Brett*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon those persons named below, this 21st day of July, 2016 via ECF to:

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/s/ Joel D. Brett
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